IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 708 of 2003
with
Civil Application No.2093 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ASHIT SHIPPING AGENCIES

Versus

DEMO TIMBERS PVT. LTD B.O. KATH MANDI BAHADURGRAH

Appearance:
1. First Appeal No. 708 of 2003
MR NV ANJARIA for Petitioner No. 1
RULE SERVED for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE M.H.KADRI

Date of decision: 26/09/2003

COMMON ORAL JUDGEMENT

1. The respondents (original plaintiffs) had filed

Special Civil Suit No.67 of 1995 (Old No.107 of 1989) against the appellant (original defendant) to recover Rs.90,271/- from the appellant. The above suit was filed in the Court of the learned Civil Judge (S.D.), Gandhidham-Kachchh, and the learned Trial Judge, by judgment and decree dated September 16, 2002, had decreed the suit filed by the respondents and it was directed that the respondents shall be entitled to recover Rs.90,271/- from the appellant with interest at the rate of 6% per annum from the date of the suit till realization. The above judgment and decree is challenged by the appellant in this First Appeal.

2. Special Civil Suit No.67 of 1995 was valued at Rs.90,271/- and the Court Fees were paid on that amount. In view of the amended Section 26 of the Bombay City Courts Act, 1869, ('Act' for short), as it stood on the date of the judgment and decree, the appeal would lie to the District Court, as pecuniary jurisdiction of the District Court is enhanced to Rs.1 lakh by the amendment introduced in Section 26 of the Act, which came into force with effect from September 2, 2002. The decree was passed in the above suit by the Trial Court on September 16, 2002, i.e. after introduction of the amendment in Section 26 of the Act. This is not disputed by the learned advocate for the appellant. The memo of appeal is, therefore, required to be returned to the appellant for presentation to the proper Court. It is, therefore, directed that memo of appeal along with the certified copy of the judgment and decree be returned to the appellant for presentation to the proper Court. The appellant is given time till October 18, 2003 to present the memo of appeal in the District Court.

3. Office is directed to return

(i) memo of First Appeal No. 708 of 2003
(ii) memo of Civil Application No.2093 of 2003
(iii)the order passed by the Court (Coram: M.C. Patel, J.) dated March 24, 2003, in Civil Application No.708 of 2002
and
(iv) certified copy of the judgment and decree

to the appellant for presentation before the appropriate Court, forthwith.

Order accordingly.

(M.H. Kadri, J.)

(swamy)